

# Writing a Legal Brief

Grades 9-12

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A brief is a written presentation of arguments made during an appeal. The Appellant, the party appealing the trial court's decision, argues why that decision was wrong; the Appellee, the party who won in the trial court, argues why the trial court's decision was correct. The appellate court uses the briefs and the trial record in deciding whether the trial court's decision should stand. According to Indiana Appellate Rule 46, a brief should contain the following sections, in the following order:

**Cover Page:** Every brief must have a Cover Page. The Cover Page lists basic information about the case including the court in which the case is being heard, the case number, the names of the parties, the name of the judge who is presiding over the case, the title of the brief (e.g. Appellant's Brief), and the name and contact information of the lawyer who is filing the brief.

**Table of Contents:** The Table of Contents should list each section of the brief. It also should list the page number on which each section begins.

**Table of Authorities:** The Table of Authorities is like a table of contents for sources of law mentioned in the brief. In the Arguments section, when a lawyer refers to a rule of law, the lawyer also must refer to the source of the rule so that a reader can find that source on her own. The reference to a source of law is called a "citation." The Table of Authorities lists all of the sources that the lawyer mentions in the Arguments section, in alphabetical order organized by type of source (e.g. case, statutes) and with the page numbers where the source appears. Some examples of sources are laws that the legislature has passed and cases that the courts have already decided.

**Statement of the Issues:** The Statement of the Issues is a short list of the issues on which each party is asking the appellate court to make a decision. Each issue listed should be as specific as possible. For examples, see the case materials recommended at the end of this article.

**Statement of the Case:** The Statement of the Case should briefly describe the nature of the case, the course of any prior proceedings, and the decision reached by the trial court as it pertains to the issues raised in the brief. For example, the Statement of the Case should contain a description of the events in the trial court regarding the issues raised in the brief.

**Statement of Facts:** The Statement of Facts should describe the facts of the case that are necessary for understanding the arguments. Usually, this section is written in narrative form, meaning that it reads like a story.

**Arguments:** This is usually the longest section of the brief. Here, the parties make their arguments as to whether the trial court's decision was correct and the reasons why or why not. Each argument should be made separately, using subheadings to clearly show where each new argument begins. Each argument should also follow a logical line of reasoning. The arguments should describe the related rules of law and then apply those rules to the facts of the case. A short one-sentence conclusion should end each argument.

**Conclusion:** The Conclusion should summarize the Arguments section in one short paragraph. The last sentence should be a request that the court rule in favor of the party who wrote the brief.

For an example of a properly formatted brief, please refer to the Shah v. Harris materials on the Indiana Judiciary website at <http://www.in.gov/judiciary/citc/lessons/>.

## Teachers' Notes

Of the eight sections of a typical brief, some may not be necessary to require for a high-school-level brief-writing assignment. While useful to attorneys when checking the sources used in a brief, the Table of Authorities may not have much usefulness for high-school students and may be eliminated. Alternatively, teachers may explain to their students that the Table of Authorities is similar to a Works Cited or Bibliography page. As such, it may be useful to include the Table of Authorities to reinforce the need to show one's sources in academic writing. Also, unless the assignment will be a part of a larger unit on how a case moves through the court system, the Statement of the Case can be either eliminated or incorporated into the Statement of Facts.

At a minimum, any brief should include a Cover Page, Table of Contents, Statement of the Issues, Statement of Facts, Arguments, and Conclusion.

The Cover Page of a brief submitted to an appellate court must be a designated color based upon the court level and the party filing the brief. The color-coded covers aid the court in finding individual documents within a case file. Teachers may wish to have their students use a similar color-coded system in preparing their own briefs. Here are some of the colors required by the Indiana Appellate Rule 43 (H) and the documents they signify:

<u>Color</u>	<u>Type of Document</u>
Blue	Appellant's Brief, in the Court of Appeals
Red	Appellee's Brief, in the Court of Appeals
Gray	Any reply brief, in the Court of Appeals
Orange	Appellant's Brief, in the Supreme Court
Yellow	Appellee's Brief, in the Supreme Court
Tan	Reply brief to Appellee's Brief, in the Supreme Court

Teachers also should note that when lawyers prepare briefs for the Indiana appellate courts, there are strict page and word limits. For example, in Indiana, an Appellant's Brief in the Court of Appeals must be limited to 30 pages or 14,000 words. Generally, the word limit only applies to sections of the brief appearing after the Table of Authorities. Teachers may wish to set appropriate length guidelines for their students to simulate the guidelines used by courts.